

The Municipal Tax Sharing (Potash) Act

being

Chapter M-34 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1979-80, c.M-32.01; 1983, c.21; 1984-85-86, c.41; 1991, c.T-1.1; 1997, c.12 and c.15; 2005, c.M-36.1; 2014, c.E-13.1; 2015, c.21; and 2018, c.25.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER M-34

An Act respecting the Sharing of Rural Municipal Tax Levies on Potash Development with Municipalities Located within an Area of Influence of the Potash Development

Short title

1 This Act may be cited as *The Municipal Tax Sharing (Potash) Act*.

Definitions and Interpretation

2 In this Act:

“**actual municipal mill rate**” means the mill rate calculated in accordance with subsection (2);

“**areas of influence**” means, with respect to a potash mine, an area of Saskatchewan as determined in accordance with the regulations;

“**board**” means the Municipal Potash Tax Sharing Administration Board established pursuant to section 3;

“**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“**operational mine**” means a potash mine that is determined to be operational by the minister by order;

“**potash mine assessments**” means the assessments established for taxation purposes pursuant to *The Municipalities Act* on land, buildings, plant and equipment related to the operation of the potash mines that come within the class of potash mines to which this Act applies;

“**taxing rural municipality**” means a rural municipality within whose borders a potash mine assessment or development liable to taxation pursuant to this Act is located;

“**total municipal levy**” means the tax revenue generated through the mill rate, mill rate factors, base tax, minimum tax and any other property tax pursuant to *The Municipalities Act*;

“**total municipal taxable assessment**” means the total taxable assessments for municipal purposes for all property classes that are calculated pursuant to *The Municipalities Act*;

“**urban municipality**” means a town, village or resort village to which *The Municipalities Act* applies.

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(2) The actual municipal mill rate for each rural municipality is the amount calculated in accordance with the following formula:

$$\text{AMR} = \frac{\text{TML}}{\text{TMTA}} \times 1000$$

where:

AMR is the actual municipal mill rate;

TML is the total municipal levy for the rural municipality; and

TMTA is the total municipal taxable assessment of the rural municipality

2018, c.25, s.3.

Board

3(1) The Municipal Potash Tax Sharing Administration Board shall administer this Act.

(2) The board consists of the following members appointed by the Lieutenant Governor in Council:

(a) two persons nominated by the Saskatchewan Association of Rural Municipalities;

(b) one person nominated by the Saskatchewan Urban Municipalities Association;

(c) one person nominated by the Saskatchewan Potash Producers Association; and

(d) one person nominated by the minister.

(3) Nominations are to be made in accordance with the following rules:

(a) the Saskatchewan Association of Rural Municipalities shall nominate:

(i) a person who is a reeve or councillor of a rural municipality; and

(ii) at least one of the two persons nominated shall be a member of the executive of the Saskatchewan Association of Rural Municipalities; and

(b) the Saskatchewan Urban Municipalities Association shall nominate:

(i) a person who is a mayor or councillor of a municipality; or

(ii) a person who is a member of the executive of the Saskatchewan Urban Municipalities Association.

(4) The persons appointed as members of the board shall take office on the date fixed by the order of the Lieutenant Governor in Council.

(5) If a member dies or resigns, that person ceases to be a member on the date of death or on the date on which the resignation is received by the board, as the case may be.

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(6) If the office of a person appointed pursuant to this section becomes vacant, the Lieutenant Governor in Council may, having regard to the requirements of this section:

(a) appoint a person for the remainder of the term of the person who vacated the office; or

(b) appoint a person for the term mentioned in subsection 4(1).

(7) A vacancy in the membership does not impair the power of the remaining members or of the board to act.

2018, c25, s.4.

Board office

3.1 The office of the board must be in the City of Regina.

2018, c25, s.4.

Officers

3.2(1) At its first meeting in each year, the board shall appoint a chairperson and a vice-chairperson from its members.

(2) The board shall:

(a) at the board's first meeting or as soon as possible after the first meeting, or when a secretary-treasurer vacancy occurs, appoint a secretary-treasurer who holds office at the pleasure of the board; and

(b) establish the duties and responsibilities of the secretary-treasurer in accordance with the regulations.

(3) The board and the secretary-treasurer shall comply with the requirements of this Act and the regulations relating to the calculation, collection and distribution of tax revenues collected from potash mine assessments in accordance with this Act and the regulations.

2018, c25, s.4.

Term of office

4(1) Each member of the board shall hold office for a term of two years and until a successor is appointed.

(2) A member of the board whose term of office has expired is eligible for reappointment if that member continues to meet the requirements of subsections 3(2) and (3).

2018, c25, s.5.

Quorum

5 Three members of the board constitute a quorum.

2018, c25, s.6.

Remuneration and expenses of members

6(1) Each member of the board, other than a member who is an employee of the Government of Saskatchewan, is to be paid:

- (a) an amount *per diem*; and
- (b) an allowance or reimbursement for travel, food, lodging and any other expenses incurred by the member;

that the Saskatchewan Association of Rural Municipalities shall fix, subject to the approval of the minister, to compensate the member for attending meetings and carrying out the business of the board.

(2) A member of the board who is an employee of the Government of Saskatchewan is to be reimbursed in accordance with rates established for members of the public service of Saskatchewan for any expenses that:

- (a) are approved by the minister; and
- (b) are incurred by the member in attending meetings and carrying out the business of the board.

1984-85-86, c.41, s.4; 2018, c25, s.7.

Payment of expenses of board

7 The costs of administering this Act shall be paid from and out of the moneys collected and remitted to the board by the taxing rural municipalities.

R.S.S. 1978, c.M-34, s.7.

Mill rate to be set by board

8(1) Notwithstanding the provisions of *The Municipalities Act* respecting assessment and taxation, the mill rate for municipal purposes within a taxing rural municipality with respect to potash mine assessments shall be set each year by the board in the manner set out in subsections (2) to (4), section 8.1 and the regulations.

(2) The board shall determine the area in square kilometres of that portion of each rural municipality that is within an area of influence in that municipality.

(3) The number of square kilometres for each rural municipality as determined under subsection (2) shall be multiplied by the actual municipal mill rate applicable to that municipality for the immediately preceding year.

(4) The sum of the figures obtained for each rural municipality pursuant to subsection (3) shall be divided by the total number of square kilometres within the area of influence for which the calculation is made; and the result so obtained shall be the mill rate to be levied by the taxing rural municipality on the potash mine assessments, within that area of influence, in the year for which the calculation is made.

(4.1) **Repealed.** 2018, c25, s.8.

(5) **Repealed.** 2018, c25, s.8.

(6) **Repealed.** 2018, c25, s.8.

R.S.S. 1978, c.M-34, s.8; 1997, c.15, s.4; 2005, c.M-36.1, s.447; 2018, c25, s8.

Setting base date and accommodating assessment changes

8.1(1) In this section:

“**base date**” means a base date as defined in section 193 of *The Municipalities Act*;

“**new mine**” means a potash mine that is deemed to be operational by the minister.

(2) In setting the mill rate pursuant to subsection 8(1), the board, in a year in which there is a new base date, shall adjust the mill rate obtained pursuant to subsection 8(4) so that the rural municipalities within the area of influence will raise, subject to subsections (3) and (4), in that year the same total tax revenues for municipal purposes from potash mine assessments that were raised in the preceding year:

(a) using the adjusted mill rate and the new taxable potash mine assessments that result from the new base date taking effect; and

(b) based on the same land and improvements as existed before the base date.

(3) In a year in which a new base date takes effect, if new land and improvements are assessed to a potash mine property:

(a) the calculation for municipal potash tax sharing must include the new assessments; and

(b) the adjusted mill rate must be applied to the new assessments.

(4) If a potash mine is deemed to be a new mine in a year in which a new base date takes effect, then in that year:

(a) if the new mine’s area of influence overlaps with one or more existing areas of influence to create a new, expanded area of influence:

(i) the adjusted mill rate calculated in the existing areas of influence pursuant to subsection (2) is to be applied to the new mine’s potash mine assessments; and

(ii) the tax revenues for municipal purposes from the assessment on the new mine are to be distributed to all eligible municipalities within the expanded area of influence in accordance with the regulations; and

(b) if the new mine creates a new area of influence, the mill rate for the new mine’s potash mine assessments is to be calculated pursuant to the regulations.

2018, c25, s.9.

Mill rate calculated for first time

8.2 If the mill rate calculated for the first time in accordance with section 8 or 8.1 exceeds the actual municipal mill rate of the taxing rural municipality, the owner of a potash mine within the taxing rural municipality liable to taxation pursuant to the provisions of this Act may apply in writing to the minister for a reduction of the mill rate to be levied on its potash mine assessments.

2018, c25, s.9.

Exception

8.3(1) The Lieutenant Governor in Council may, by order on the recommendation of the minister following a request pursuant to section 8.2, reduce the mill rate established pursuant to subsection 8(4) to apply to the potash mine assessment pursuant to section 8.1.

(2) The reduced mill rate mentioned in subsection (1) must be increased in the manner set out in the order in council over a period not exceeding four years so that the mill rate equals the mill rate established pursuant to subsection 8(4).

2018, c.25, s.9.

Application of mill rate

9(1) A taxing rural municipality shall apply the mill rate established under section 8 to the potash mine assessments within that municipality; and the provisions governing collections and tax enforcement contained in *The Municipalities Act* and *The Tax Enforcement Act* apply, *mutatis mutandis*, to taxes levied under this Act and the regulations.

(2) Every taxing rural municipality shall forthwith remit to the board all taxes collected from potash mine assessments pursuant to this Act, or pursuant to *The Municipalities Act* where the taxes collected are for municipal purposes.

R.S.S. 1978, c.M-34, s.9; 1997, c.15, s.5; 2005, c.M-36.1, s.447.

Audit

10 The books and records of the board shall be audited annually by the Provincial Auditor.

R.S.S. 1978, c.M-34, s.10.

Annual report

11(1) On or before March 1 in each fiscal year the board shall cause to be prepared a report for the preceding fiscal year showing:

- (a) the names of all taxing rural municipalities submitting payments to the board and the amounts of such payments; and
- (b) the name of each rural and urban municipality participating in a tax sharing program under this Act and the amount of any payment made by the board to each such municipality.

(2) In each fiscal year, the board, in accordance with section 13 of *The Executive Government Administration Act*, shall prepare and submit to the minister a financial statement showing the business of the board for the preceding fiscal year.

(3) The financial statement mentioned in subsection (2) is to be in the form required by Treasury Board.

(4) A copy of the report prepared pursuant to subsection (1) together with a financial statement for the year covered by the report shall be forwarded to the minister, The Saskatchewan Association of Rural Municipalities and to each rural and urban municipality mentioned in the report.

(5) In accordance with section 13 of *The Executive Government Administration Act*, the minister shall lay before the Legislative Assembly the report, including financial statements, received by the minister pursuant to subsections (2) and (4).

1991, c.T-1.1, s.29; 2014, c.E-13.1, s.62; 2018, c25, s.10.

Board to communicate mill rate to potash mines

11.1 The board shall annually provide the mill rates set by the board to all potash mines subject to this Act and the Saskatchewan Potash Producers Association by the date prescribed in the regulations and in the manner prescribed in the regulations.

2018, c25, s.11.

Tax tools prohibited but incentives allowed

11.2(1) Neither a municipality nor the board shall apply any tax tool in relation to tax on potash mine assessments that are to be collected pursuant to this Act and the regulations.

(2) A municipality may apply an incentive that is prescribed in the regulations in relation to tax on potash mine assessments pursuant to section 272 of *The Municipalities Act*.

2018, c25, s.11.

Municipal deadline for remittance of tax

11.3 A municipality shall remit to the board, by the date prescribed in the regulations, any tax revenues from potash mine assessments that are collected in accordance with this Act and the regulations.

2018, c25, s.11.

Funds received by board

11.4 The funds received by the board must be deposited in the name of the board in a chartered bank or credit union.

2018, c25, s.11.

Distribution of revenues collected

11.5 Subject to the regulations, all tax revenues from potash mine assessments that are collected in accordance with this Act and the regulations are to be distributed to eligible municipalities in accordance with the regulations.

2018, c25, s.11.

Appeals

11.6(1) Any person who wishes to appeal a potash mine assessment must do so in accordance with *The Municipalities Act*.

(2) If a decision resulting from an appeal so requires, the board shall recalculate the adjusted municipal mill rate in accordance with subsection 8.1(2).

(3) If the circumstances in subsection (2) exist, the municipality shall send a revised tax notice to the potash mine.

2018, c25, s.11.

Immunity

12 No action or other proceeding lies or shall be commenced against the minister, the board, any member of the board or any employee of the board for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any function or responsibility imposed by this Act or the regulations.

2018, c25, s.12.

Regulations

13(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) designating areas of influence;
- (c) designating the class or classes of rural and urban municipalities that are eligible for a distribution of tax revenues from potash mine assessments that are collected pursuant to this Act and the regulations;
- (d) exempting any class of potash mine or potash mine property from the operation of this Act;
- (e) prescribing the formula governing the distribution of tax revenues collected from potash mine assessments and received by the board;
- (f) providing for expenses of the board to be paid from funds received by the board;
- (g) prescribing the date and manner by which the board shall annually provide the mill rates set by the board to the potash mines and the Saskatchewan Potash Producers Association;
- (h) prescribing any additional requirements related to the calculation, collection and redistribution of tax revenues from potash mine assessments;

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- (i) prescribing the date by which municipalities shall remit to the board the tax revenues from potash mine assessments that are collected pursuant to this Act and the regulations;
 - (j) prescribing the duties or responsibilities of the secretary-treasurer;
 - (k) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
 - (l) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) Regulations made pursuant to subsection (1) may be made retroactive to a day not earlier than the day on which this section comes into force.

2018, c25, s.12.

Act to prevail in case of conflict

14 Where there is a conflict between the provisions of this Act and of any other Act, the provisions of this Act prevail.

R.S.S. 1978, c.M-34, s.14.

